

**United States Environmental Protection Agency
Region 5**

IN THE MATTER OF:)	
)	
Viking Paints, Inc.)	FINDING OF VIOLATION
Richfield, Minnesota)	
)	EPA-5-04-MN-08
)	
Proceedings Pursuant to)	
the Clean Air Act,)	
42 U.S.C. §§ 7401 <u>et seq.</u>)	

FINDING OF VIOLATION

The United States Environmental Protection Agency finds that Viking Paints, Inc. (Viking) is violating Sections 183 and 111(e) of the Clean Air Act (Act), 42 U.S.C. §§ 7511b and 7411(e). Specifically, Viking is violating the National Volatile Organic Compound Emission Standards for Architectural Coatings at 40 C.F.R. Part 59, Subpart D as follows:

Regulatory Authority

1. Section 183(e) of the Act, 42 U.S.C. § 7511b(e), authorizes U.S. EPA to promulgate regulations establishing requirements regarding the manufacture of certain consumer or commercial products, the use of which may result in the release of volatile organic compounds (VOCs).
2. Pursuant to Section 183(e) of the Act, 42 U.S.C. § 7511b(e), on September 11, 1998, U.S. EPA promulgated National Volatile Organic Compound Emission Standards for Architectural Coatings at 40 C.F.R. Part 59, Subpart D.
3. 40 C.F.R. § 59.402(a) requires that each manufacturer and importer of any architectural coating subject to Subpart D ensure that the VOC content of the coating does not exceed the applicable limit in Table 1 of Subpart D of the Architectural Coating Regulations (Table 1 of Subpart D).

4. 40 C.F.R. § 59.405(a)(2) requires each manufacturer and importer of any architectural coating subject to Subpart D to provide on the label or lid of the container in which they sell or distribute the coating, the manufacturer's recommendation regarding thinning of the coating, including if appropriate, specifying that the coating is to be applied without thinning.

Factual Background

5. Viking owns and operates an architectural coating manufacturing facility at 100 West 78th Street, Richfield, Minnesota.
6. Viking manufactured and distributed coatings between September 13, 1999 and December 31, 2002, including but not limited to those listed in Table A. The coatings listed in Table A are recommended for field application to stationary structures and their appurtenances.

Table A. Coatings Manufactured From September 13, 1999 through December 31, 2002.

Product	VOC Content (g/L)		Total Liters Manufactured		
	Actual	Limit	9/13/99 to 12/31/00	2001	2002
Cooustic Coat	4	250	34,179	50,882	40,859
Porch and Deck Enamel	461	380	0	0	197
Forrester	613	550	257	431	435
Housepaint Primer	472	350	19		
Polywall Foundation Coating FC-STD	637	600	538,571	278,814	194,348
Polywall Foundation Coating STD	633	600	25,095	0	0
Polyurethane Seal	483	450	1,312	791	795
Polyurethane Gloss Finish	475	450	1,495	1,506	772
Polyurethane Satin	460	450	1,393	1,200	1,215

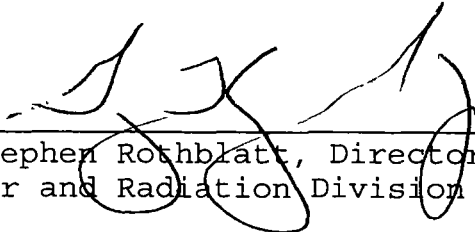
7. Since September 13, 1999, Viking has manufactured and distributed "architectural coatings," as defined in 40 C.F.R. § 59.401.
8. "Polywall Foundation Coating FC-STD," and "Polywall Foundation Coating STD," are "waterproofing sealer and treatments," as that phrase is defined at 40 C.F.R. § 59.401.
9. The VOC content limit for waterproofing sealer and treatments, as stated in Table 1 of Subpart D, is 600 grams of VOC per liter of coating.
10. "Porch and Deck Enamel," is a "non-flat coating," as that term is defined at 40 C.F.R. § 59.401.
11. The VOC content limit for non-flat exterior coatings, as stated in Table 1 of Subpart D, is 380 grams of VOC per liter of coating.
12. "Polyurethane Seal," "Polyurethane Gloss Finish," and "Polyurethane Satin Finish," are "varnishes," as that term is defined at 40 C.F.R. § 59.401.
13. The VOC content limit for varnishes, as stated in Table 1 of Subpart D, is 450 grams of VOC per liter of coating.
14. "Forrester Stain," is a "stain" as that term is defined at 40 C.F.R. § 59.401.
15. The VOC content limit for stains, as stated in Table 1 of Subpart D, is 550 grams of VOC per liter of coating.
16. "Housepaint Primer," is a "primer" as that term is defined at 40 C.F.R. § 59.401.
17. The VOC content limit for primers, as stated in Table 1 of Subpart D, is 350 grams of VOC per liter of coating.
18. Viking did not provide proper thinning recommendations on the labels or lids of the containers for "Coustic Coat," "Forrester," "Housepaint Primer," "Polyurethane Seal," "Polyurethane Gloss," and "Polyurethane Satin."
19. Viking did not submit exceedance fees for the production of any of its architectural coatings by March 1 following the calendar year in which the coatings were manufactured or imported.

20. Viking did not submit tonnage exemption reports for the production of any of its architectural coatings by March 1 following the calendar year in which the coatings were manufactured or imported.

Violations

21. Since September 13, 1999, Viking has violated 40 C.F.R. § 59.402(a) by failing to ensure that the VOC content of the coatings listed in Table A above, with the exception of Coustic Coat, comply with the VOC content limits in Table 1 of Subpart D.
22. Since September 13, 1999, Viking has violated 40 C.F.R. § 59.405(a)(2) by failing to provide a written statement of its recommendation on thinning on the containers for "Coustic Coat," "Forrester," "Housepaint Primer," "Polyurethane Seal," "Polyurethane Gloss," and "Polyurethane Satin."

3/29/04
Date



Stephen Rothblatt, Director
Air and Radiation Division

ALTING

CERTIFICATE OF MAILING

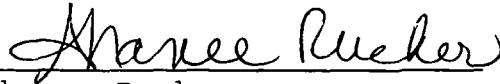
I, Shanee Rucker, certify that I sent a Finding of Violation, No. EPA-5-04-MN-08, by Certified Mail, Return Receipt Requested, to:

David E. Eriksen, President
Viking Paints, Inc.
100 West 78th Street
Richfield, Minnesota 55423

I also certify that I sent copies of the Finding of Violation by first class mail to:

Ann Foss, Enforcement Manager
Minnesota Pollution Control Agency

on the 30th day of March, 2004.


Shanee Rucker,
Administrative Program Assistant
AECAS, (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 000615648023